

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT  
SUCR 2019-0114  
SUCR 2019-0115  
SUCR 2019-0116

COMMONWEALTH

v.

DORSTON BARTLETT  
DAVID FINNERTY  
KENNY ORCEL

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COMMONWEALTH'S STATEMENT OF THE CASE

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Now comes the Commonwealth and, in order to provide the Court with an understanding of the general nature of the charges, respectfully files the following Statement of the Case:

At 1:45AM on July 27, 2018 MBTA Transit Police Officer Dorston Bartlett used his expandable baton to beat Anthony Watson, a 32 year old homeless man, while ejecting Mr. Watson from the Ashmont T station. The use of force was unreasonable and unjustified. Officer Bartlett, with the assistance of a T inspector, then shoved Watson out of the station door and chased him out of the area. Watson fled to a nearby intersection and then collapsed on the sidewalk. Officer Bartlett then drove his cruiser to Watson's location, tossed him his backpack, and told Watson to "Get the fuck out of here." Bartlett returned to the train station, briefly conferred with the T inspector, and then drove away from the area.

Watson flagged down a passerby, who called 911 and explained that a man was injured at Peabody Square, and that he had been beaten by a cop. A radio call was broadcast that dispatched two Boston Police Officers to Peabody Square to respond to the call. GPS data from

Bartlett's cruiser shows that Bartlett had stopped his cruiser about a mile away from the scene, but that when the radio call went out, Bartlett drove his cruiser back to the Peabody Square Area. Bartlett approached the Boston Police Officers and informed them that he had been searching for Watson to arrest him because Watson had assaulted him. The Boston Police Officers then assisted Bartlett in arresting Watson.

Bartlett brought Watson to the MBTA Police Headquarters to be booked. In the booking area, Watson tried to explain to the booking officer what had actually occurred and urged him to look at the video. In response to this, Bartlett grabbed Mr. Watson, who was handcuffed at the time, by the throat and face and pushed him backwards, stating to him, "This is why you were arrested."

In the course of preparing his report that night, Bartlett watched the security video of the beating and the ejection with Sergeant David Finnerty, who was the Officer in Charge that night, and Sergeant Kenny Orcel, who was the Patrol Supervisor. Any reasonable police officer who watched the videos of the incident would recognize the use of the baton was unreasonable and unjustified.

Bartlett's initial draft of the report describing the incident was a problem...it told the truth. There was no justification to beat Anthony Watson. Recognizing this, Sgt. David Finnerty drafted a false and fraudulent report which falsely justified the use of force and arrest. Finnerty took steps to disguise his authorship of the report. For example, rather than edit Bartlett's report in MBTA's regular software (which has an audit trail that notes who edits reports and when), Finnerty used his computer to type a fraudulent narrative into a Microsoft Word document, printed it, but didn't save the word document. Finnerty then handed this printout to Bartlett, who entered the report in as his own. Sgt. Kenny Orcel, well knowing the report to be false, then

approved the report in the software system. Finnerty, well knowing the statements to be false, also incorporated the same false statements into a morning summary briefing that was circulated to the Command Staff and Lieutenants of the MBTA Police.

The Suffolk County Grand Jury returned indictments as follows:

**Officer Dorston Bartlett**

- Assault and Battery - Dangerous Weapon - G.L.c. 265 § 15A
- Assault and Battery - G.L.c. 265 § 13A
- Civil Rights Violation - G.L.c. 265, § 37
- Misleading a Police Officer - G.L.c. 268, § 13B
- False Report by Public Officer or Employee – Incident Report - G.L.c. 268, § 6A

**Sgt. Kenny Orcel**

- False Report by Public Officer or Employee – Incident Report - G.L.c. 268, § 6A
- Accessory after the Fact – ABDW - G.L.c. 274 § 4

**Sgt. David Finnerty**

- False Report by Public Officer or Employee – Incident Report - G.L.c. 268, § 6A
- False Report by Public Officer or Employee – Shift Briefing - G.L.c. 268, § 6A
- Accessory after the Fact – ABDW - G.L.c. 274 § 4
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Respectfully Submitted

For the Commonwealth,

RACHAEL ROLLINS,  
DISTRICT ATTORNEY,

Dated: March 26, 2019

by: \_\_\_\_\_

Andrew Doherty (BBO# 654842)  
Assistant District Attorney  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of this document was delivered by hand to defense counsel in the above matter on the date indicated below.

Dated: \_\_\_\_\_

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ADA \_\_\_\_\_